

KING & SPALDING

November 13, 2024

VIA ECF

Hon. Leo M. Gordon
United States District Court
District of New Jersey
2 Federal Square
Newark, NJ 07102

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Re: *State of New Jersey v. U.S. Dep't of Transportation et al.*, No. 2:23-cv-03885

Dear Judge Gordon:

I respectfully write on behalf of the State of New Jersey (“New Jersey”) to update Your Honor on a recent development related to this case. It was reported in the press last Friday, November 8, and confirmed today, that New York Governor Hochul is seeking to lift the pause on congestion pricing in advance of President-elect Trump’s inauguration.¹ We wanted you to be aware of this as soon as possible since it appears the Defendants have once again been silent about an important development in the case. The press reported that Governor Hochul asked the U.S. Department of Transportation whether implementing congestion pricing with a base toll of \$9, instead of \$15, would require any further environmental review.² In either event, though, merely lowering the toll amount would not cure the defects in the National Environmental Policy Act review process conducted by the Defendants when the Federal Highway Administration (“FHWA”) issued its Finding of No Significant Impact. As Your Honor is aware, the Metropolitan Transportation Authority (“MTA”) has advised that it is ready to turn “on” the switch and begin congestion pricing whenever the FHWA and New York’s Department of Transportation give their approval. These recent developments—New York now seeking the FHWA’s approval to move forward before the imminent change in federal administrations and the MTA poised to proceed—provide further evidence that this case is ripe for decision.

Respectfully,

/s/ Randy M. Mastro

Randy M. Mastro

cc: All counsel of record (via ECF)

¹ Jeff Coltin and Ry Rivard, *Hochul Moves to Revive Manhattan Toll Plan After Trump Win*, POLITICO (Nov. 8, 2024), <https://www.politico.com/news/2024/11/08/congestion-pricing-kathy-hochul-tolling-new-york-00188477>; Emma Fitzsimmons, et al., *As Trump’s New Term Looms, Hochul Considers Reviving Congestion Pricing*, N.Y. TIMES (Nov. 8, 2024), <https://www.nytimes.com/2024/11/08/nyregion/trump-congestion-pricing-nyc.html>; Emma G. Fitzsimmons, et al., *New York to Revive Congestion Pricing With \$9 Toll*, N.Y. TIMES (Nov. 13, 2024), <https://www.nytimes.com/2024/11/13/nyregion/congestion-pricing-nine-dollars.html>; Jesse Zanger, *Gov. Kathy Hochul to Make NYC Congestion Pricing Announcement Thursday*, CBS NEWS (Nov. 13, 2024), <https://www.cbsnews.com/newyork/news/nyc-congestion-pricing-announcement/>.

² Jeff Coltin and Ry Rivard, *Hochul Moves to Revive Manhattan Toll Plan After Trump Win*, POLITICO (Nov. 8, 2024), <https://www.politico.com/news/2024/11/08/congestion-pricing-kathy-hochul-tolling-new-york-00188477>.